

HON'BLE SRI JUSTICE L.NARASIMHA REDDY
WRIT PETITION No. 10432 of 2007

Dated 19th June 2007

Between:

Mohd.Hasham Qureshi & others

...Petitioners

and

The A.P. State Wakf Board, rep.by

Chief Executive Officer, Nampally Hyderabad & others

...Respondents

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ORDER:

The petitioners challenge the proceedings, dated 30.4.2007, issued by the Revenue Divisional Officer and Sub-Divisional Magistrate, Hyderabad, the 2nd respondent herein, under Section 55 of the Wakf Act, 1995 (for short "the Act").

The petitioners are in occupation of small extents of land, belonging to the Wakf, known as 'Takia Amrullah shah Saheb and Dargah Hazrath Zohra Bee Saheba', at Edi Bazar, Hyderabad. While the petitioners claim that they are the tenants of the Wakf, their claim was disputed and they were treated as encroachers. After certain rounds of litigation, the A.P. Wakf Board, the 1st respondent, ultimately issued proceedings dated 20.11.2002, under Section 54(1) of the Act, treating the petitioners as encroachers, and directing them to vacate the premises.

The petitioners filed O.S.No.3 of 2003, in the Wakf Tribunal, against the orders dated 20.11.2002, and obtained order of *status-quo*. It is, however, stated that on account of their not being aware of the death of their counsel, they could not pursue the matter, further. The impugned proceedings are issued under Section 55 of the Act, as a sequel to the proceedings dated 20.11.2002, issued by the 1st respondent.

The 1st respondent on the one hand, and respondent No.5 on the other, who claim to be the Muthawallies, filed separate counter affidavits. They state that the petitioners did not present the correct facts, before this court, and the writ petition is not maintainable, in view of the fact that the petitioners have already availed the alternative remedy, before the Wakf Tribunal.

Heard the learned counsel for the petitioners, learned Standing Counsel for the 1st respondent, and learned counsel for the 5th respondent.

The proceedings that are challenged in this writ petition, do not have independent existence, on their own. They are consequential to the orders, dated 20.11.2002, passed by the 1st respondent, in exercise of power under Section 54(1) of the Act. The petitioners have availed the correct and proper remedy of filing a suit, before the Wakf Tribunal. For one reason or the other, the order of *status-quo*, said to have been granted in their favour, was not extended beyond one month. As long as the suit is pending, the petitioners cannot approach this court, that too, against the consequential proceedings. At the most, they have to take necessary steps, to protect their interests, pending the suit.

Hence, the writ petition is dismissed, leaving it open to the petitioners, to seek appropriate interlocutory orders in O.S.No.3 of 2003. To enable them to seek such relief, the respondents shall not evict the petitioners, for a period of three weeks. The nature of action to be taken thereafter, shall depend upon the orders that may be passed by the Tribunal. There shall be no order as to costs.

19th June 2007

Note: Issue C.C. in two days.
(B/o)
PAN